**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**
**WRIT PETITION NO. 818 OF 2005**

M/s. Deluxe Dwarka Dining ...Petitioner

Versus

Assistant Provident Fund Commissioner, Kolhapur ...Respondent

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Mr. M.S. Topkar, counsel for Petitioner
Mr. Suresh Kumar, counsel for Respondent.

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**CORAM: B. H. MARLAPALLE, J.**
**DATED: 15TH MARCH, 2005**

**P. C.:-**

1. Heard Mr. Topkar, the learned counsel for the petitioner and Mr. Sureshkumar, Standing Counsel for the respondent.

2. Rule. Mr. Sureshkumar waives service for respondent.

3. An order for recovery of Provident Fund Contribution U/Section 7-A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (P.F. Act for short) has been passed by the respondent on 29.1.2004 as well as on 29.3.2004 for the recovery of amount of Rs.4,86,678/-. The said order is exparte and therefore, the petitioner has filed an application U/Section 7-A(4) of the P.F. Act on or about 17.2.2004. This application is still undecided and in the meanwhile show cause notice before

issuance of arrest warrant has been taken out by the respondents on 7.7.2004. Hence, this petition.

4. If the order U/Section 7-A has been passed exparte, sub-section 4 therein has provided a remedy for filing an application and the same remedy has been evoked by the petitioner. It is necessary for the respondents to decide the said application before taking any further steps for execution of the original order passed U/sec. 7-A of the Act and without deciding the application it may not be permissible for the respondent to proceed for the execution. It is therefore, directed that the application filed U/sec.7-A(4) of the P.F. Act by the petitioner shall be decided as expeditiously as possible and in any case within a period of four weeks from the date of appearance. The petitioner undertakes to appear before the respondent on 29.3.2005 at 11.30 a.m.. The show cause notice dated 7.7.2004 shall stand stayed till the application is decided.

4. The petition is disposed of in terms of the above directions.

5. Rule made absolute accordingly with no order as to costs.